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No. 05-

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IN THE
Supreme Court of the United States

DALE GARRISH, *et al.*,

Petitioners,

v.

UAW INTERNATIONAL UNION, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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ISSUES PRESENTED

The following two issues are presented:

1. The Sixth Circuit Court of Appeals decision that the statute of limitations period in plaintiffs' suit under 29 U.S.C. § 185 began to toll when their grievance was withdrawn by their union's representative rather than when plaintiffs exhausted, or attempted to exhaust their internal union remedies, is contrary to the Supreme Court holdings that require the statute of limitations period to be tolled during the time plaintiffs pursue their internal union remedies.
2. The Sixth Circuit Court of Appeals' determination that employees seeking to vindicate their rights to Fair Representation demonstrate that the internal union appeal procedures afford them some relief as condition to a Court's tolling of the six month statute of limitations improperly requires reliance upon employees' subjective beliefs, constitutes an unworkable standard which frustrates the National Labor Policy of encouraging workers to pursue internal union remedies while ensuring them a judicial forum in which to resolve disputes, and conflicts with the holdings of other Circuit Courts of Appeals.

PARTIES TO THE PROCEEDING

Petitioners

Dale Garrish, Gerald McDonald, James Adams, Frank Arold, Mitchell Atkinson, Janice A. Austin, Donald Bradford, Wayne Breece, David Carlock, Mark Castiglione, James Chrzanowski, Jimmie Clark, James Dexter, Ronald Dimity, Cheryl Eason, Gary Edwards, Ronald Estrada, Charles Frank, James Gerbig, Gary Gladki, Keith Goodrich, Randy Gossett, William Green, Russell Gregg, David Hall, Diane Hall, Kathleen Hodge, Catherine Holland, Robert Honeycutt, Robert Hudson, Randall Huff, Douglas Hutchinson, John Hutchinson, Kenneth Keesling, David Kettler, Ronald Kildow, Charles Mann, John Morell, John Moses, Rafael Moyet, Drinda Osborne, Eric Palmer, Ronald Rächfal, Robert Randolph, Lee Russell, David Shaw, Dennis Simoni, Michael Smith, Michael Sprague, James Stojisih, Robert Walrath, John Watt, and Allen Wrubel.

Respondents

International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America; Local 594 International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America; and General Motors Corporation.

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OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Sixth Circuit is a published opinion, which is attached as Appendix A. The trial court's opinion is attached as Appendix B.

STATEMENT OF JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

The Labor Management Relations Act, 29 U.S.C. § 185.

STATEMENT OF THE CASE

Petitioners are 53 employees of General Motors Corporation ("GM") who are employed at GM's Pontiac, Michigan Truck Facility ("Pontiac Truck"). Petitioners are also members of the International Union United Automobile, Aerospace, and Agricultural Implement Workers of America – UAW ("UAW"), and its affiliate UAW Local 594 ("Local 594"). Petitioners work under a National Collective Bargaining Agreement ("CBA") to which GM and the UAW are parties. Petitioners also work under a Local Collective Bargaining Agreement to which GM's Pontiac Truck plant management ("GM Plant Management") and Local 594 are parties.

There are two sets of facts to this case. One relates to the improper hiring of relatives of UAW officials to skilled trades positions for which they were not qualified under the CBA. This hiring was a result of an 87 day strike in 1997 that was initiated by the UAW solely to force GM to hire

two relatives of UAW officials. In order to settle the strike GM caved into the UAW's demand, which was in violation of federal law and for which two UAW officials have been indicted by the United States Government.

The second set of facts relate to an admission in mid-2000 by one Local 594 official who said that in order to settle the strike GM paid him and all other Local 594 Bargaining Committee officials money to which they were not entitled.

a. *The 87 Day Strike in 1997*

In 1995 the Chairman of Local 594 ("Jay Campbell"), directly and through Local 594's Skilled Trades Committeemen ("William Coffey"), notified GM's Pontiac Truck Plant Management that if GM would not agree to hire his son ("Gordon Campbell") into a skilled trades position, specifically the classification titled "Experimental Auto Product Engineering Layout & Assembly" ("Vehicle Builder"), that GM would have trouble getting a Local CBA in 1996, which was the date set for negotiating a new three year local agreement. GM's answer in 1995 was that the Chairman's son was not qualified under the requirements of the GM-UAW CBA, specifically Paragraph 178, and that it would not hire the Chairman's son.

As required by the UAW and GM, Local 594 and GM's Pontiac Truck Management began local negotiations in July 1996. As is the usual procedure in GM-UAW local negotiations, Local 594 submitted its demands to GM's Local Management. The number of demands exceeded 400, the demands ranged from additional manpower, to more fans, to various local agreements, etc. These demands were in addition to thousands of grievances that were not settled through the established grievance procedure of the CBA for the period of 1993 to 1996.